

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-187-T - ORDER NO. 2003-633
OCTOBER 22, 2003

IN RE: Application of McCorquodale Transfer, Inc.,) ORDER ✓
381 Summit Blvd., Birmingham, AL 35243) DENYING
for a Class E Certificate of Public) APPLICATION
Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of McCorquodale Transfer, Inc. (McCorquodale or the Company) for a Class E Certificate of Public Convenience and Necessity to transport household goods as follows:

Household Goods, As Defined in R. 103-210(1): Between points and places in Charleston, Berkeley, and Dorchester Counties, SC.

The Commission's Executive Director instructed the Company to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing instructed the public as to how to file pleadings to participate in the proceedings on the Application. Petitions to Intervene were filed by Azalea Moving & Storage, Inc. (Azalea), Carey Moving & Storage, Inc., Carey Moving & Storage of Greenville, Inc., and Carey Moving & Storage of Charlotte, Inc. (collectively, the Carey companies).

A hearing on the Application was held on September 11, 2003 at 2:30 PM in the offices of the Commission. The Honorable Mignon Clyburn, Chair, presided.

McCorquodale was represented by John J. Pringle, Jr., Esquire. David Popowski,

Esquire, represented Azalea. The Carey companies did not appear at the hearing. The Commission Staff was represented by F. David Butler, General Counsel.

McCorquodale presented the testimony of Bartley R. McCorquodale and Bryan R. Terrell. Azalea presented the testimony of Jay Cook. The Commission Staff did not present any witnesses in this proceeding.

Bartley R. McCorquodale, President of the Company, testified. Mr. McCorquodale stated that his father owned a furniture store and that he started delivering furniture during his third year of college to help pay tuition. Mr. McCorquodale testified that the Company has seventeen straight trucks at the home office located in Birmingham, Alabama, but that he intended to use two trucks in the three counties in South Carolina. Mr. McCorquodale also stated that the majority of his business would be moving goods from stores to houses. Mr. McCorquodale noted that he has had requests from people in South Carolina that the Company open a branch in South Carolina, particularly in the Charleston area.

During the hearing, it became apparent that the Company had had its authority to move household goods revoked by the Alabama Public Service Commission on January 29, 2002. Mr. McCorquodale was not aware of this fact until he began preparations for this hearing. Mr. McCorquodale testified that, although he had the proper insurance coverages in effect, his new insurance company failed to file Form E and Form H with the Alabama Commission, thus leading to the revocation. According to a late-filed exhibit received by the Commission, the Company's authority in Alabama has been restored subsequent to the hearing on this Application.

Bryan Terrell also testified for the Company. Terrell stated that he had canvassed the Charleston area and also performed a demographic study. He concluded that the area had a need for a mover of antique goods.

Jay Cook of Azalea Moving & Storage, Inc. also testified. Cook stated that his company performs store to residence moves. Further, Cook testified that the closure of the Charleston Naval Base has caused a decrease in the number of moves in the Charleston area. Cook stated the belief that there are a sufficient number of movers serving the Charleston area.

S.C. Code Ann. Section 58-23-590(C)(Supp. 2002) states that the Commission shall issue a common carrier certificate of public convenience and necessity if the applicant proves to the Commission that: (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of the chapter and Commission regulations and (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

Upon consideration of this matter, we have determined that McCorquodale Transfer, Inc. has not demonstrated that it meets the “fit” portion of the fit, willing, and able criteria of the statute, therefore, the Application must be denied.

We are deeply concerned that McCorquodale was unaware, until he began preparation for this hearing, that his Alabama certificate had been revoked since January 29, 2002. In fact, this came to light through information provided by counsel for Azalea. During the hearing, Mr. McCorquodale testified that although his insurance coverage had been continuous, his insurer failed to file the proper forms with the Alabama


Commission, thus leading to revocation of his authority. Mr. McCorquodale also testified that he never received notice of the revocation from the Alabama Commission, and therefore continued to operate with no authority, in violation of Alabama law.

Commission Regulation 103-133(1)(a), defining “fit,” states, in part, that the applicant should certify that he is familiar with all statutes and regulations and agree to operate in compliance with these statutes and regulations. We think that McCorquodale’s experience with the Alabama Commission severely damages McCorquodale’s credibility with regard to any representation by the Company, its principals, and agents made to indicate that the Company will comply with all South Carolina statutes and regulations. If McCorquodale did not comply with Alabama law, it is highly questionable as to whether McCorquodale will comply with South Carolina law. Although Mr. McCorquodale blames his insurer for failure to file the proper forms, which led to revocation of the Company’s Alabama certificate, we hold that Mr. McCorquodale, as President of the Company, is charged with the knowledge of what his insurer did or did not do and that Mr. McCorquodale is ultimately responsible for the proof of insurance being filed. McCorquodale did not follow the law in Alabama. We therefore have grave doubts about whether the Company will follow the law in South Carolina. Accordingly, we do not think that McCorquodale has demonstrated compliance with the “fit” criteria, and the application must be denied accordingly.

Because we have held that the Company has not demonstrated that it is “fit,” we do not reach the “public convenience and necessity” portion of the statute.

The Application is denied. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Bruce F. Duke
Acting Executive Director

(SEAL)